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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,213	02/27/2004	Doyle E. Cherry	Cherry-001	9133
21897	7590	10/14/2005	EXAMINER	
THE MATTHEWS FIRM 2000 BERING DRIVE SUITE 700 HOUSTON, TX 77057			MEISLIN, DEBRA S	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,213

Applicant(s)

CHERRY, DOYLE E.

Examiner

Debra S. Meislin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-9,28,31,37 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9,28,31,37 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 5, 28, 31 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, "the granular particle coating" lacks antecedent basis.

In claim 28, line 5, and claim 42, line 2, "extends radially said at least one jaw member" is grammatically incorrect. Additionally, if the adapter extends radially from the jaw member, such structure is not understood in view of the specification and drawings.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wesch, Jr. (5172613) in view of Buck (6050156).

Wesch, Jr. discloses all of the claimed subject matter except for having a brake drum and band disposed about the brake drum. Figures 3 and 5 of Wesch, Jr. show a die, a jaw member and an adapter therebetween. Note figures 15-19 of Buck which show the structure of the drag ring, brake drum and band. It would have been obvious to one having ordinary skill in the art to form the device of Wesch, Jr. with a brake drum and band disposed about the brake drum to allow the jaws to grip a tubular as taught by Buck. Note that figure 1b of Wesch, Jr. shows that a gripping surface may be convex as opposed to concave.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wesch, Jr. in view of Hoy (5259280).

Wesch, Jr. discloses all of the claimed subject matter except for having a metallic overlay surface and a granular particle surface. Note that figure 1b of Wesch, Jr. shows that a gripping surface may be convex as opposed to concave.

Hoy discloses a gripping surfaces being formed by a metallic overlay surface and a granular particle surface applied over the metallic overlay surface for engaging the workpiece. Hoy further discloses that the layers may be applied to other types of tools such as wrenches. It would have been obvious to one having ordinary skill in the art to form the gripping surface of the die of Wesch, Jr. with a metallic overlay surface and a granular particle surface applied over the metallic overlay surface for non-slip engagement with the workpiece as taught by Hoy.

With respect to claim 4, Hoy discloses the tool being formed of alloyed steel and the metallic overlay being formed of nickel or metal. The overlay could be softer than to tool steel dependent upon the type of alloyed steel chosen.

With respect to claim 5, the examiner takes Official Notice that the use of tungsten carbide to form a granular particle gripping surface is notoriously old and well known in the tool art. Hoy discloses a granular particle gripping surface being formed with diamond chips. Consequently, it would have been obvious to one having ordinary skill in the art to form the diamond chip granular particle gripping surface out of tungsten carbide.

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5. Claims 7-9, 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wesch, Jr. in view of Hoy (5259280) as applied above, in further view of Buck.

Figures 3 and 5 of Wesch, Jr. show a die, a jaw member and an adapter therebetween. Note figures 15-19 of Buck which show the structure of the drag ring, brake drum, band and hydraulic cylinder. It would have been obvious to one having ordinary skill in the art to form the device of Wesch, Jr. with a brake drum, a band disposed about the brake drum and a hydraulic cylinder to allow the jaws to grip a tubular as taught by Buck.

6. The drawings are objected to under 37 CFR 1.83(a) and 1.84. The drawings must clearly show every feature of the invention specified in the claims. Therefore, figures 4, 4a, 4b, and 5-9 must be clearly drawn. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Character of lines, numbers, and letters. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. The weight of all lines and letters must be heavy enough to permit adequate reproduction. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

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Reference characters (numerals are preferred), sheet numbers, and view numbers must be plain and legible, and must not be used in association with brackets or inverted commas, or enclosed within outlines, e.g., encircled. They must be oriented in the same direction as the view so as to avoid having to rotate the sheet. Reference characters should be arranged to follow the profile of the object depicted.

Note that figures that depict prior art must be labeled as Prior Art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S. Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

October 13, 2005